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Nicolas Patrice Bernard Touchard

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EASTMAN KODAK COMPANY
PATENT LEGAL STAFF
343 STATE STREET
ROCHESTER, NY 14650-2201

EXAMINER

OWYANG, MICHELLE N

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/550,115	Applicant(s) TOUCHARD ET AL.	
	Examiner MICHELLE OWYANG	Art Unit 2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. The action is responsive to the Applicant's Amendment filed on 11/24/2010, with claims 1-3, 5-10 amended, claims 4, 11-12 cancelled.

Claims 1-3, 5-10 are pending in this application.

Specification

2. In view of the abstract amendments filed on 11/24/2010, the specification objection as set forth in the previous office action is hereby withdrawn.

Claim Objections

3. Claim 1 is objected to for lack of antecedent basis for "the data messages".

Claim Rejections - 35 USC § 101

4. In view of the claim amendments filed on 11/24/2010, the claim rejections made under 35 USC 101 as set forth in the previous office action are hereby withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-3, 5-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1, the feature of “wherein the first event data and the second event data are provided by a telecommunications operator routing the data messages from the portable devices over the communication network” is not clearly understood rendering the claim indefinite. There is insufficient antecedent basis for “the data messages” in the claim. Thus, it is unclear whether “the data messages” is referred to “said data message” or “said at least message”, and the correlation between “the data messages” and “the second event data” is unclear.

Any claim not specifically addressed, above, is being rejected as incorporating the deficiencies of a claim which it depends.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-3, 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (Pub No. US 2001/0032335 A1), hereinafter, in view of Beeman et al. (Pub No. US 2003/0039410 A1), hereinafter Beeman.

Jones and Beeman are cited by the Examiner in the previous office action.

With respect to claim 1, Jones discloses a method for sharing multimedia data captured by a plurality of portable devices having a built-in camera and data transmission capability means ([0013], [0047], Fig 7: provide real-time picture communication between users including sharing pictures, and the users have portable devices having built in camera).

Concerning "a server receiving data messages, said data messages transmitted by the portable devices over a communication network and each including at least first event data",

Jones disclose a picture communication network subsystem receiving data messages, said data messages transmitted by the portable devices over a communication network and each including at least first event data ([0014-0015], [0041-0045], [0048], [0059]: capture images and send images, the images are associated with data such as multimedia and event data and the images are also associated with annotations); and a picture communication network subsystem includes a registry, where as the registry is a database that stores information regarding user, user devices, network address. ([0052]).

Jones does not explicitly disclose that a server receiving data messages.

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However, Beeman discloses a server receiving data messages ([0020-0021]: server receives images from the image capture device).

Since both Jones and Beeman are directed to capture images and managing images, it would have been obvious to one skilled in the art at the time of the invention to modify and combine the teachings of Beeman in the method of Jones by incorporating images storage and retrieval techniques in the images communication network in order to improve the ability to find user interest images (see Beeman, [0006]).

The combined teachings of Jones and Beeman further discloses the server linking an identifier to each of said data messages according to its first event data, and saving each of said data messages and its linked identifier in a memory (see Jones, [0045]: the image can be indexed and stored; and see Beeman, [0036], Fig 4-5: the images are linked with identifying information such as metadata and are saved);

the server receiving a data, the data request transmitted by one of the portable devices over the communication network comprising at least second event data (see Jones, [0052],[0059]: sending request for images; and see Beeman,[0008], [0034], [0036], [0042], Fig5-6B: receive image retrieval request, and the request comprises key terms associated with the image attributes; it is interpreted that the attributes could be related to second event data);

the server searching for at least one data message saved in the memory that is linked to an identifier that matches to the second event data of the data request (see Jones, [0087],[0091], [0171], [0191-0194]: select picture from director; and see Beeman, [0008], [0039], [0046]: search the database for match images);

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the server transmitting said at least one data message saved in the memory over the communication network to said one of the portable devices (see Jones, [0014-0015], Fig 5 & 14-19: send image to recipient; and see Beeman, Fig 6A-6B, [0040]: present retrieved image to user); and

wherein the first event data and the second event data are provided by a telecommunications operator routing the data messages from the portable devices over the communication network (see Jones, [0088], [0127-0128]: the image annotation is provided by the operator of the user device routing the image file; and see Beeman, [0034-0036], Fig 1 & 4-5: the metadata data that includes attributes and keywords are provided by the operator of the user device).

With respect to claim 2, the combined teachings of Jones and Beeman further discloses wherein the data messages include data relative to images, video clips, sound recordings, text or any combination thereof (see Jones, Fig 1: pictures, voice, text; and see Beeman, Fig 3-5: image).

With respect to claim 3, the combined teachings of Jones and Beeman further discloses wherein the first event data include location data and date of transmission of the data messages transmitted by the portable devices over the communication network (see Jones, [0041-0044]: event data are associated with the place and date of transmission; and see Beeman, [0036]: image attributes could be associated with data such as date, place and other metadata related to

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the image).

With respect to claim 5, the combined teachings of Jones and Beeman further discloses linking each of the data messages with a second identifier that is performed by the telecommunications operator or by an image sharing service provider (see Jones, [0041-0044], Fig 1: established data is associated with the real-time communication system for transmitting messages; and see Beeman, [0020], Fig 3-5: network is associated with the image retrieval and processing).

With respect to claim 6, the combined teachings of Jones and Beeman further discloses wherein the step of the server transmitting is conditional upon whether said one of the portable devices that transmitted the data request is associated with a server subscription to a sharing service, payment of a subscription, supply of multimedia data, place of transmission of one of the data messages, or place of transmission of the data request (see Jones, [0134-0141]: server subscription and business relationship; and see Beeman, [0039-0042], Fig 6A-6B: the search and transmission are conditional based on user query).

With respect to claim 7, the combined teachings of Jones and Beeman further discloses wherein the data request includes at least one datum indicating any one of: the server subscription to the sharing service, the payment of the subscription, the supply of the multimedia data, the place of transmission of said one of the data messages, or the place of transmission of the data request (see Jones, [0134-0141]: server subscription and business relationship; and see

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Beeman, [0039-0042], Fig 6A-6B: the search and transmission are conditional based on user query).

With respect to claim 8, the combined teachings of Jones and Beeman further discloses wherein the at least one datum comprises the first event data included in the data message (see Jones, [0041-0043], [0048], [0052]: the request is related to image annotations; and see Beeman, Fig 4-6B: the request comprises of metadata).

With respect to claim 9, the combined teachings of Jones and Beeman further discloses wherein the portable devices are cameras having sound recorders including a connection to a telecommunications network (see Jones, Fig 2; and see Beeman, Fig 1: requests are from mobile devices).

With respect to claim 10, the combined teachings of Jones and Beeman further discloses wherein the portable devices are mobile phones comprising a viewing screen suited to image or video (see Jones, Fig 2; and see Beeman, Fig 1: requests are from mobile devices).

Response to Arguments

7. Applicant's arguments filed on 11/24/2010, with respect to amended claims 1-3, 5-10, cancelled claims 4, 11-12, have been fully considered but are moot in view of the new ground(s) of rejection.

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Applicant argued that the combined teaching of Jones and Beeman fail to teach the amended features because Jones fails to teach that first event data is linked to received data messages and that second event data is included in a data request, the first and second event data are established by telecommunication operator/suppliers, and the combined teachings of Jones and Beeman "would not have provided guidance for a situation where users do not know each other and where no specific links between users pre-exist image transmittal between them" in the remarks. However, first, it appears that the features of "the first and second event data are established by telecommunication operator/suppliers" and "a situation where users do not know each other and where no specific links between users pre-exist image transmittal between them" are not been recited in the claims; thus no significant patentable weights are placed on the cited features. Secondly, Jones disclose transmitting image file with captured image and annotations between devices over a communication network ([0014-0015], [0041-0045], [0048], [0059]), whereas the captured image can be indexed and stored ([0045]). Jones further discloses an image telecommunication network subsystem that comprises a registry storing user and device information for provides communication services between users including locating users in response to a query and establishing communication between users ([0052]). Furthermore, Beeman disclose an image retrieval system that comprises image capture, image transmission, images attribute analyzation, image storage and image retrieval ([0020-0021], [0034-0036], Fig 1 & 4-6A). According to page 7 of the specification, it appears that the operator is part of mobile phone that ensures the routing of images data to the sever and establishes additional message data. Since, it appears that the image file with annotation as taught by Jones can reasonably be interpreted as a message with event data, and the image metadata for storage and querying as

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taught by Beeman can also reasonably be interpreted as message with linked event data, and the image capture devices of both Jones and Beeman are capable of establishing images as well as image related data and transmitting the established image and data to another device such as a server, it appears that that the combined teachings of Jones and Beeman reasonably teach linking and matching event data with data message, whereas the event data are provided by the operator associated with the user image capture device.

Therefore, it is believed that all features recited in both independent and dependent claims have been properly addressed, see the claim analysis and remarks above for detail.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHELLE OWYANG whose telephone number is (571)270-1254. The examiner can normally be reached on Monday-Friday (Alternate Fridays Off): 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TIM VO can be reached on 571-272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tim T. Vo/
Supervisory Patent Examiner, Art Unit
2168

/M. O./
Examiner, Art Unit 2168